

WOODY W. HACKNEY, OF FORT WORTH, TEX.

AUGUST 23 (legislative day, AUGUST 22), 1960.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany S. 3844]

The Committee on the Judiciary, to which was referred the bill (S. 3844) for the relief of Woody W. Hackney, of Fort Worth, Tex., having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the bill is to pay the claimant \$9,894.31 as compensation for all losses directly or indirectly sustained by him through injury or damage to livestock, real property, crops, and equipment, and all losses in milk production, resulting from the crash of an aircraft assigned to the Texas Air National Guard on the claimant's property on April 23, 1960, while the pilot was engaged in a training flight.

STATEMENT

On April 23, 1960, an aircraft assigned to the Texas Air National Guard, U.S. Naval Air Station, Dallas, Tex., and piloted by a member of the Air National Guard, departed from that base to proceed to Carswell Air Force Base at Fort Worth, Tex., to practice ground control approaches. After a normal takeoff the pilot noted a lack of thrust and an overtemperature of 1,000° C., although the flight altitude did not exceed 2,000 feet at that time. The pilot elected to eject himself from the plane rather than make an emergency landing on an unprepared surface. The pilot set the controls for a near level flight and ejected himself from the plane. The aircraft continued on a westerly direction losing altitude, shearing through the tops of trees, landed in an oatfield and slid through fences and into some trees. The aircraft in its crash fell completely apart and was thoroughly burned, being a total loss.

At the time of the crash there were 95 cows in a pasture next to the point of impact. Due to the noise and fire the cattle stampeded toward the barn and during this time 17 cows cut their udders by running through the wire fences and as a result thereof were of no further use as dairy cows, and had to be sold as canners and cutters. Loss in milk production also developed among other cows of the herd. Due to the fact that two fences were damaged at the time of the crash, it was necessary for the claimant to keep the cows within the barn lot and this made it necessary to increase the amount of feed normally used.

In addition to the losses heretofore mentioned, fences were damaged not only by the crash of the aircraft but also due to the need to move in emergency equipment during the rescue and recovery procedures. By reason of the damage to the fences there was also a loss of 20 acres of oats caused by the plane crash and the fact that cows from an adjoining farm entered the field and ate the oats.

During the course of the investigation a field representative and a former dairyman for the North Texas Producers Association, and the county agricultural agent, Tarrant County, Tex., as well as local cattlemen, stated that the claim of Mr. Hackney is a fair and conservative estimate of losses.

Since there is no Federal law available for covering the losses sustained by Mr. Hackney, private relief legislation is the only means by which this can be accomplished, and accordingly the committee recommends favorable consideration of S. 3844, without amendment.

Attached hereto and made a part hereof is a detailed statement of estimated loss by the claimant, and also excerpts from the claims officer's report made by Robert H. Bush, captain, Texas Air National Guard, and D. N. Presley, lieutenant colonel, Texas Air National Guard, 136th Fighter Group, who passed upon this claim.

Estimated loss due to F-86L aircraft SN 53-4085 at 11:12 a.m. on Apr. 23 1960

| | |
|---|------------|
| Loss on 17 cows..... | \$3,707.37 |
| Feed for 87 cows for 7 days..... | 280.00 |
| Loss on oats..... | 600.00 |
| Fence repair..... | 246.62 |
| Loss in milk production..... | 5,060.32 |
| Total..... | 9,894.31 |
| Loss on 17 cows: Value of cows prior to accident: | |
| Holstein: 4 heavy springers at \$325..... | 1,300.00 |
| Holstein: 3 milk cows (fresh) at \$300..... | 900.00 |
| Jersey: 1 milk cow (fresh) at \$275..... | 275.00 |
| Holstein: 5 milk cows at \$365..... | 1,825.00 |
| Holstein: 2 milk cows at \$357..... | 715.00 |
| Holstein: 1 milk cow at \$350..... | 350.00 |
| Holstein: 1 milk cow at \$352.50..... | 352.50 |
| Total..... | 5,717.50 |
| Net proceeds from sale of above cows: | |
| Receipts for sale of 17 cows..... | 2,057.63 |
| Less trucking fee..... | 47.50 |
| Total..... | 2,010.13 |
| Cost of 17 cows..... | 5,717.50 |
| Sale receipt..... | 2,010.13 |
| Loss..... | 3,707.37 |
| Feed for 87 cows for 7 days: This was due to the 2 fences being torn down and had to keep the cows up. | |
| Loss on oats: 20 acres at an estimate of 40 bales of oat hay per acre at a price of \$1 per bale less \$0.25 per bale for baling; total price of \$0.75 per bale. (20×40×75=\$600). | |
| Fence repair: 2 fences were damaged at cost of \$246.62 for repairs. | |
| Loss in milk production estimated as follows: | |
| 8 cows with loss of 30 pounds milk per cow per day for a period of 90 days, 8×30×90×\$5.23 hundredweight.... | 1,129.98 |
| 9 cows with a loss of 35 pounds milk per cow per day for a period of 90 days 90×35×90×\$5.23 per hundredweight..... | 1,482.70 |
| All cows producing now with average of 27 pounds per cow spring milk should be 35 pounds per cow. 65 head with a loss of 8 pounds per cow per day for period of 90 days, 65×8×90×\$5.23 per hundredweight.... | 2,447.64 |
| Total loss on milk production as shown above..... | 5,060.32 |

NOTE.—A 90-day period is used to include time needed to process claim.

EXCERPTS FROM REPORT OF CLAIMS OFFICER

A F-86L-60MA 53-4085 aircraft assigned to the 136th Consolidated Aircraft Maintenance Squadron, Texas Air National Guard, U.S. Naval Air Station, Dallas, Tex., departed home station at 11:03 CST on April 23, 1960, piloted by Captain Leland Carl Pinkel, AO3044967, Tex-ANG, Headquarters, 136th Air Defense Wing, attached for flying to the 181st Fighter Interceptor Squadron, on a local VPR flight as the No. 3 aircraft of a formation which was to proceed to Carswell AFB at Fort Worth, Tex. to practice GCA

approaches. After a normal takeoff the pilot noted a lack of thrust and after an overtemperature of 1,000° C. was noted and since the flight altitude did not exceed 2,000 feet at this time, the pilot elected to eject rather than make an emergency landing on an unprepared surface. He trimmed the aircraft for near level flight at 170 knots, ejected at approximately 1,700 feet above terrain. A normal ejection was experienced and pilot received no injury. The aircraft continued on a westerly heading, losing altitude, shearing through the top of trees and touched down slightly on right wing first in a dive angle of approximately 15° from the horizontal. At the time of crash, approximately 4,000 pounds of fuel was aboard. After the aircraft sheared the top of trees it then hit in an oat field and slid through fence and into some trees. The aircraft started breaking up upon touchdown in the oat field, continued falling apart and was thoroughly burned, being a total loss. There were no witnesses to the crash. At the time of the crash there were 95 cows in a pasture next to the point of impact. Due to the noise and fire the cattle stampeded toward the barn and during this time 17 of the cows cut udders going through a wire fence. These 17 cows were removed from the herd due to health reasons and damage being such that they were of no further use as a dairy cow and had to be sold as canners and cutters. Loss in milk production by cows other than injured cows. The investigating officer was informed by individuals with expert knowledge of such facts that a dairy cow is very easy excitable and after they have been excited very often have a drop in milk or in some cases go completely dry within a short period of time. Due to the fact that two fences were damaged at time of crash and recovery it was necessary for claimant to keep cows in the barn lot and this made it necessary to increase the amount of feed normally used.

The claimant's oat field was damaged at time of crash by the impact and after the crash by fire, fuel, necessary recovery procedures, and spectators.

During this period cows from an adjoining farm entered the oat field due to fence being damaged. The 20 acres of oats are a complete loss.

As noted in previous aircraft accidents of this nature a fence is not only damaged at the point that aircraft crashed but receives considerable damage to a large section due to emergency equipment used in rescue and recovery procedures and due to spectators entering the scene of accident.

Having interviewed Mr. Walter C. Pierce, field representative for North Texas Producers Association; Mr. Paul Morton, milk hauler for North Texas Producers Association and former dairyman; Mr. Jack McCullough, county agricultural agent, Tarrant County, Tex., local cattlemen, all of which stated that the claim is a fair and conservative estimate of losses. None of the interviewed individuals were

in a position to sign a sworn statement due to the fact that they had no firsthand knowledge of losses and were only giving their opinion of the estimate submitted by the claimant.

I find that there was no negligence or wrongful act on the part of the pilot or the claimant.

A statement by the pilot or the claimant would be of no value in this case.

The accident which caused the damage did not result from an authorized activity incident to the operation of an authorized camp of instruction. Pilot was performing a flying training period at the time of accident.

At the time of the accident the pilot was accomplishing flying training required by Continental Air Command training directives and AFR 60-02.

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the position to sign a sworn statement due to the fact that they had no firsthand knowledge of facts and were only giving their opinion of the same, submitted by the claimant.

I said that I never in the time in which I was on the part of the pilot or the claimant.

A statement by the pilot of the accident would be of no value in this case.

The accident which caused the injury did not result from an authorized activity related to the operation of an authorized cargo of livestock. It was the result of a flying wing period at the time of accident.

At the time of the accident the pilot was accomplishing flying training required by Continental Air Command training directive and AFR 60-02.